

**Proposed NPDES Storm Water General Permit  
for Discharges from Construction Activities  
in Indian country within the State of Wisconsin**

**Cover Page**

Permit No. [See Part I.A.]

Authorization To Discharge Under the National Pollutant Discharge  
Elimination System

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. 1251 et. seq.), except as provided in Part I.B.3 of this permit, operators of construction activities located in an area specified in Part I.A. and who submit a Notice of Intent in accordance with Part II, are authorized to discharge pollutants to waters of the United States in accordance with the conditions and requirements set forth herein.

This permit shall become effective on **[DATE]**, 2002.

This permit and the authorization to discharge shall expire at midnight, **[DATE]**, 2007.

Signed and issued this **[XX]**th day of **[DATE]**, 2001.  
Jo Lynn Traub, Director, Water Division.

# NPDES General Permit for Storm Water Discharges From Construction Activities in Indian country in the State of Wisconsin

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#### **Part I. Coverage Under This Permit**

##### **A. Permit Area**

This permit covers Indian country in Wisconsin, including the following areas: Bad River Indian Reservation, Forest County Potawatomi Indian Reservation, Ho-Chunk Nation Indian Reservation, Lac Courte Oreilles Indian Reservation, Lac Du Flambeau Indian Reservation, Menominee Indian Reservation, Oneida Indian Reservation, Red Cliff Indian Reservation, Sokaogon (Mole Lake) Indian Reservation, St. Croix Indian Reservation, and the Stockbridge-Munsee Indian Reservation.

## **B. Eligibility**

1. Permittees are authorized to discharge storm water runoff associated with construction activities in accordance with storm water phase I and II regulations as defined in I.B.1.a and I.B.1.b below. Discharges identified under Part I.B.3 are excluded from coverage. Any discharge authorized by a different NPDES permit may be commingled with discharges authorized by this permit.
  - a. Storm water phase I regulations cover storm water discharges from large construction activities as defined in 40 CFR 122.26(b)(14)(x) and those construction site discharges designated by the Director as needing a storm water permit under 122.26(a)(1)(v), or under 122.26(a)(9) and 122.26(g)(1)(i).
  - b. Beginning on March 10, 2003, storm water phase II regulations cover small construction activities as defined in 40 CFR 122.26(b)(15)(i) and those construction site discharges designated by the Director as needing a storm water permit under 122.26(a)(1)(v), 40 CFR 122.26 (b)(15)(ii) or under 122.26(a)(9) and 122.26(g)(1)(i).
2. This permit also authorizes storm water discharges from support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas) provided:
  - a. The support activity is directly related to a construction site that is required to have NPDES permit coverage for discharges of storm water associated with construction activity;
  - b. The support activity is not a commercial operation serving multiple unrelated construction projects by different operators, and does not operate beyond the completion of the construction activity at the last construction project it supports; and
  - c. Appropriate controls and measures are identified in a storm water pollution prevention plan covering the discharges from the support activity areas.

## **3. Limitations on Coverage.**

- a. **Post Construction Discharges.** This permit does not authorize storm water discharges that originate from the site after construction activities have been completed and the site, including any temporary support activity site, has undergone final stabilization. Industrial post-construction storm water discharges may need to be covered by a separate NPDES permit.
- b. **Discharges Mixed With Non-Storm Water.** This permit does not authorize discharges that are mixed with sources of non-storm water, other than those discharges which are identified in Part III.A.2. or 3. (exceptions to prohibition on non-storm water discharges) and are in compliance with Part IV.D.9 (non-storm water discharges).
- c. **Discharges Covered by Another Permit.** This permit does not authorize storm water discharges associated with construction activity that have been covered under an individual permit or required to obtain coverage under an alternative general permit in accordance with Part VII.L.
- d. **Discharges Threatening Water Quality.** You are not authorized for storm water discharges if the Director has notified you in writing before you filed your Notice of Intent that your discharges will significantly contribute to excursions of applicable water quality standards. If the Director makes such a determination after you have filed a Notice of Intent, it make take action authorized under Part VII.L.
- e. **Storm water discharges and storm water discharge-related activities that are not protective of Federally listed endangered and threatened (“listed”) species or designated critical habitat (“critical habitat”).**
  - (1) For the purposes of complying with the Part I.B.3.e. eligibility requirements, “storm water discharge-related activities” include:
    - (a) Activities which cause, contribute to, or result in point source storm water pollutant discharges, including but not limited to: excavation, site development, grading and other surface disturbance activities; and
    - (b) Measures to control storm water including the siting, construction and operation of best management practices (BMPs) to control, reduce or prevent storm water pollution.
  - (2) Coverage under this permit is available only if the applicant certifies that it meets at least one of the criteria in paragraphs (a)-(d) below. Failure to continue to meet one of these criteria during the term of the permit will

render a permittee ineligible for coverage under this permit.

- (a) The storm water discharges and storm water discharge-related activities are not likely to adversely affect listed species or critical habitat; or
  - (b) Formal or informal consultation with the Fish and Wildlife Service (and/or the National Marine Fisheries Service) (the “Service(s)”) under section 7 of the Endangered Species Act (ESA) has been concluded which addresses the effects of the applicant's storm water discharges and storm water discharge-related activities on listed species and critical habitat and the consultation results in either a no jeopardy opinion or a written concurrence by the Service(s) on a finding that the applicant's storm water discharges and storm water discharge-related activities are not likely to adversely affect listed species or critical habitat. A section 7 consultation may occur in the context of another Federal action (e.g., a ESA section 7 consultation was performed for issuance of a wetlands dredge and fill permit for the project, or as part of a National Environmental Policy Act (NEPA) review); or
  - (c) The applicant's construction activities are authorized under section 10 of the ESA and that authorization addresses the effects of the applicant's storm water discharges and storm water discharge-related activities on listed species and critical habitat; or
  - (d) The applicant's storm water discharges and storm water discharge-related activities were already addressed in another operator's certification of eligibility under Part I.B.3.e.(2)(a), (b), or (c) which included the applicant's project area. By certifying eligibility under Part I.B.3.e.(2)(d), the applicant agrees to comply with any measures or controls upon which the other operator's certification under Part I.B.3.e.(2)(a), (b) or (c) was based.
- (3) All applicants must follow the procedures provided at Addendum A of this permit when applying for permit coverage.
  - (4) The applicant must comply with any applicable terms, conditions or other requirements developed in the process of meeting eligibility requirements of Part I.B.3.e.(2)(a), (b), (c), or (d) above to remain eligible for coverage under this permit. Such terms and conditions must be incorporated in the applicant's storm water pollution prevention plan.

- (5) Applicants who choose to conduct informal consultation to meet the eligibility requirements of Part I.B.3.e.(2)(b) are automatically designated as non-Federal representatives under this permit. See 50 CFR 402.08. Applicants who choose to conduct informal consultation as a non-Federal representatives must notify the EPA Region 5 Office and the appropriate Service office in writing of that decision.
  - (6) This permit does not authorize any storm water discharges where the discharges or storm water discharge-related activities cause prohibited “take” (as defined under section 3 of the Endangered Species Act and 50 CFR 17.3) of endangered or threatened species unless such takes are authorized under section 7 or 10 of the Endangered Species Act.
  - (7) This permit does not authorize any storm water discharges where the discharges or storm water discharge-related activities are likely to jeopardize the continued existence of any species that are listed or proposed to be listed as endangered or threatened under the ESA or result in the adverse modification or destruction of habitat that is designated or proposed to be designated as critical under the ESA.
- f. Storm Water Discharges and Storm Water Discharge-Related Activities with Effects on Historic Properties.
- (1) This permit authorizes any storm water discharges or storm water discharge-related activities if the proper coordination has been conducted according parts I..B.3.f.(2) and (3).
  - (2) Applicants are required to coordinate with the State Historic Preservation Officer (SHPO)/Tribal Historic Preservation Officer (THPO) and others regarding effects of their storm water discharges and storm water discharge-related activities on historic properties. Addendum B list the THPOs for each Wisconsin Tribe which has THPO status and Tribal Environmental Staff contacts for each tribe. The SHPO and the relevant tribal government should be consulted for those Tribes which do not have THPO status.
  - (3) The applicant must provide evidence of prior screening for the presence of historic properties and coordinate with the relevant official(s) to develop a mitigation plan, as needed, consistent with the procedures regarding coordination with local officials described at §§ 800.4-800.6 of the National Historic Preservation Act regulations.
  - (4) In the event there is an inadvertent discovery of a historic property on the

site during construction, the permittee must immediately stop the construction activity and coordinate with the appropriate official(s) consistent with the steps outlined in 36 CFR § 800.13 of the National Historic Preservation Act regulations.

### **C. Obtaining Authorization**

1. In order for storm water discharges from construction activities to be authorized under this general permit, an operator must:
  - a. Meet the Part I.B. eligibility requirements;
  - b. Except as provided in Part II.A.5, develop a storm water pollution prevention plan (SWPPP) covering either the entire site or all portions of the site for which they are operators (see definition in Part X.O) according to the requirements in Part IV. A “joint” SWPPP may be developed and implemented as a cooperative effort where there is more than one operator at a site; and
  - c. Submit a completed Notice of Intent (NOI) in accordance with the requirements of Part II, using an NOI form provided by the Director (or a photocopy thereof). Only one NOI need be submitted to cover all of the permittee's activities on the common plan of development or sale (e.g., you do not need to submit a separate NOI for each separate lot in a residential subdivision or for two separate buildings being constructed at a manufacturing facility, provided your SWPPP covers each area for which you are an operator). The SWPPP must be implemented, and the storm water management plan must be developed upon commencement of construction activities.
2. There is no automatic transfer of coverage under this permit without submission of a NOI. Any new operator on site, including those who replace an operator who has previously obtained permit coverage, must submit an NOI to obtain permit coverage.
3. Unless notified by the Director to the contrary, operators who submit a correctly completed NOI in accordance with the requirements of this permit are authorized to discharge storm water from construction activities under the terms and conditions of this permit two (2) days after the date that the NOI is postmarked. The Director may deny coverage under this permit and require submittal of an application for an individual NPDES permit based on a review of the NOI or other information (see Part VII.L).

### **D. Terminating Coverage**

1. Permittees wishing to terminate coverage under this permit must submit a Notice of Termination (NOT) in accordance with Part IX of this permit. Compliance with this



permit is required until an NOT is submitted. The permittee's authorization to discharge under this permit terminates at midnight of the day the NOT is signed.

2. All permittees must submit an NOT within thirty (30) days after one or more of the following conditions have been met:
  - a. Final stabilization (see definition Part X.I) has been achieved on all portions of the site for which the permittee is responsible (including if applicable, returning agricultural land to its pre-construction agricultural use);
  - b. Another operator/permittee has assumed control according to Part VII.G.2.c. over all areas of the site that have not been finally stabilized; or
  - c. For residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner. Enforcement actions may be taken if a permittee submits a NOT without meeting one or more of these conditions.

#### **E. Waivers**

The Director may waive the requirements of this permit for a storm water discharge from construction activities that disturb less than five acres if the applicant meets the provisions of either 40 CFR 122.26(b)(15)(i)(A) or 122.26(b)(15)(i)(B).

### **Part II. Notice of Intent Requirements**

#### **A. Deadlines for Notification**

1. Except as provided in Part II.A.3, II.A.4, and II.A.5 below, parties defined as operators (see definition in Part X.O) due to their operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications, must submit a Notice of Intent (NOI) in accordance with the requirements of this Part at least two (2) days prior to the commencement of construction activities (i.e., the initial disturbance of soils associated with clearing, grading, excavation activities, or other land disturbing activities).
2. Except as provided in parts II.A.3, II.A.4, and II.A.5 below, parties defined as operators (see definition in Part X. O) due to their day-to-day operational control over activities at a project which are necessary to ensure compliance with a storm water pollution prevention plan or other permit conditions (e.g., general contractor, erosion control contractor) must submit an NOI at least two (2) days prior to commencing work on-site.
3. For storm water discharges from construction projects where the operator changes,

including instances where an operator is added after an NOI has been submitted under Parts II.A.1 or II. A.2, the new operator must submit an NOI at least two (2) days before assuming operational control over site specifications or commencing work on-site.

4. Operators are not prohibited from submitting late NOIs. When a late NOI is submitted, authorization is only for discharges that occur after permit coverage is granted. The Agency reserves the right to take appropriate enforcement for any unpermitted activities that may have occurred between the time construction commenced and authorization of future discharges is granted (typically 2 days after a complete NOI is submitted).
5. Sources excluded from this general permit solely because they already have an individual permit may request that the individual permit be revoked, and that it be covered by the general permit. The NOI for coverage under this general permit must be submitted according to Part II.A. of this permit. Upon revocation of the individual permit, the general permit shall apply to the source.

#### **B. Contents of Notice of Intent (NOI)**

1. The NOI form shall be signed in accordance with Part VII.G of this permit and shall include the following information:
  - a. The name, address, and telephone number of the operator filing the NOI for permit coverage;
  - b. An indication of whether the operator is a Federal, Tribal, private, or other public entity;
  - c. The name (or other identifier), address, county, and latitude/longitude of the construction project or site;
  - d. An indication of whether the project or site is located within Indian country;
  - e. Confirmation that a storm water pollution prevention plan (SWPPP) has been developed prior to commencing construction activities, Copies of SWPPPs or permits should not be included with the NOI submission;
  - f. Optional information: the location where the SWPPP may be viewed and the name and telephone number of a contact person for scheduling viewing times;
  - g. The name of the receiving water(s);
  - h. Estimates of project start and completion dates, and estimates of the number of acres of the site on which soil will be distributed (if less than 1 acre, enter "1");

- i. Based on the instructions in Addendum A, whether any listed or proposed threatened or endangered species, or designated critical habitat, are in proximity to the storm water discharges or storm water discharge-related activities to be covered by this permit; and
- j. Under which section(s) of Part I.B.3.e (Endangered Species) the applicant is certifying eligibility.

### **C. Where To Submit**

1. NOIs must be signed in accordance with Part VII.G. and sent to the following address:

Storm Water Notice of Intent (4203)  
US EPA, 1200 Pennsylvania Avenue N.W.  
Washington, D.C. 20460.

2. A copy of the NOI must also be sent to the Region 5 Office at the following address:

NPDES Programs Branch (WN-16J)  
US EPA, 77 West Jackson Blvd.  
Chicago, IL 60604

3. A copy of the NOI must also be sent to the appropriate tribal government. A list of the Wisconsin Tribal environmental departments can be found in Addendum B.

### **Part III. Special Conditions, Management Practices, and Other Non-Numeric Limitations**

#### **A. Prohibition Non-Storm Water Discharges**

1. Except as provided in Parts I.B.2 or 3 and III.A.2 or 3, all discharges covered by this permit shall be composed entirely of storm water associated with construction activity.
2. Discharges of material other than storm water that are in compliance with a NPDES permit (other than this permit) issued for that discharge may be discharged or mixed with discharges authorized by this permit.
3. The following non-storm water discharges from active construction sites are authorized by this permit provided the non-storm water component of the discharge is in compliance with Part IV.D.9 (non-storm water discharges): discharges from fire fighting activities; fire hydrant flushes; waters used to wash vehicles where detergents are not used; water used to control dust in accordance with Part IV.D.3.l; potable water sources including waterline flushings; routine external building wash down which does not use detergents;

air conditioning condensate; uncontaminated ground water or spring water; and foundation or footing drains where flows are not contaminated with process materials such as solvents.

## **B. Releases in Excess of Reportable Quantities**

The discharge of hazardous substances or oil in the storm water discharge(s) from a facility shall be prevented or minimized in accordance with the applicable storm water pollution prevention plan for the facility. This permit does not relieve the permittee of the reporting requirements of 40 CFR 110, 40 CFR 117 and 40 CFR 302. Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR 110, 40 CFR 117 or 40 CFR 302, occurs during a 24 hour period.

1. The permittee is required to notify the National Response Center (NRC) (800-424-8802; in the Washington, DC, metropolitan area call 202-426-2675) in accordance with the requirements of 40 CFR 110, 40 CFR 117 and 40 CFR 302 as soon as he or she has knowledge of the discharge;
2. The storm water pollution prevention plan required under Part IV of this permit must be modified within 14 calendar days of knowledge of the release to: provide a description of the release, the circumstances leading to the release, and the date of the release. In addition, the plan must be reviewed to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the plan must be modified where appropriate.

## **C. Spills**

This permit does not authorize the discharge of hazardous substances or oil resulting from an on-site spill.

## **D. Discharge Compliance With Water Quality Standards**

Your storm water pollution prevention plan must include provisions to control discharges as necessary to meet applicable water quality standards, including tribal water quality standards approved by EPA. If, after you become eligible for authorization under this permit, EPA subsequently determines that your discharge is not controlled as necessary to meet applicable water quality standards, you will receive notice that remedial action is required. If you fail to take remedial actions to control your discharge as necessary to meet water quality standards within any time period specified in the notice, your authorization to discharge terminates, effective on the date you fail to take action.

## **E. Responsibilities of Operators**

Permittees may meet one or both of the operational control components in the definition of “operator” found in Part X.O. Either Parts III.E.1 or III.E.2 or both will apply depending on the type of operational control exerted by an individual permittee. Part III.E.3 applies to all permittees.

1. Permittees with operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications (e.g., developer or owner), must:
  - a. Ensure the project specifications that they develop meet the minimum requirements of Part IV (Storm Water Pollution Prevention Plans (SWPPP)) and all other applicable conditions;
  - b. Ensure that the SWPPP indicates the areas of the project where they have operational control over project specifications (including the ability to make modifications in specifications), and ensure all other permittees implementing portions of the SWPPP impacted by any changes they make to the plan are notified of such modifications in a timely manner; and
  - c. Ensure that the SWPPP for portions of the project where they are operators indicates the name and NPDES permit number for parties with day-to-day operational control of those activities necessary to ensure compliance with the SWPPP or other permit conditions. If these parties have not been identified at the time the SWPPP is initially developed, the permittee with operational control over project specifications shall be considered to be the responsible party until such time as the authority is transferred to another party (e.g., general contractor) and the plan updated.
2. Permittee(s) with day-to-day operational control of those activities at a project which are necessary to ensure compliance with a SWPPP for the site or other permit conditions (e.g, general contractor) must:
  - a. Ensure that the SWPPP for portions of the project where they are operators meets the minimum requirements of Part IV (Storm Water Pollution Plan) and identifies the parties responsible for implementation of control measures identified in the plan;
  - b. Ensure that the SWPPP indicates areas of the project where they have operational control over day-to-day activities;
  - c. Ensure that the SWPPP for portions of the project where they are operators indicates the name and NPDES permit number of the party(ies) with operational control over project specifications (including the ability to make modifications in

specifications).

3. Permittees with operational control over only a portion of a larger construction project (e.g., one of four homebuilders in a subdivision) are responsible for compliance with all applicable terms and conditions of this permit as it relates to their activities on their portion of the construction site, including protection of endangered species and historic properties and implementation of BMPs and other controls required by the SWPPP. Permittees shall ensure either directly or through coordination with other permittees, that their activities do not render another party's pollution control ineffective. Permittees must either implement their portions of a common SWPPP or develop and implement their own SWPPP.

#### **F. 401 Certification**

For the purposes of this general permit, EPA certifies that discharges will meet applicable water quality standards and therefore EPA can make 401 certification. For reservations with federally approved water quality standards submitted by a tribe, EPA has sought certification from the approved tribe pursuant to section 401 of the CWA.

### **Part IV. Storm Water Pollution Prevention Plans**

At least one storm water pollution prevention plan (SWPPP) shall be developed for each construction project or site covered by this permit. For more effective coordination of BMPs and opportunities for cost sharing, a cooperative effort by the different operators at a site to prepare and participate in a comprehensive SWPPP is encouraged. Individual operators at a site may, but are not required, to develop separate SWPPPs that cover only their portion of the project provided reference is made to other operators at the site. In instances where there is more than one SWPPP for a site, coordination must be conducted between the permittees to ensure the storm water discharge controls and other measures are consistent with one another (e.g., provisions to protect listed species and critical habitat).

Storm water pollution prevention plans shall be prepared in accordance with good engineering practices. The SWPPP shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the construction site. The SWPPP shall describe and ensure the implementation of practices which will be used to reduce the pollutants in storm water discharges associated with construction activity at the construction site and assure compliance with the terms and conditions of this permit.

Applicants are recommended to use the construction site minimum control measure in EPA's menu of Best Management Practices and Storm Water Management for Construction Activities: Developing Pollution Prevention Plans And Best Management Practices (10/01/92). Both documents are located on the EPA Office of Water webpage at

([www.epa.gov/npdes/menuofbmps/post.htm](http://www.epa.gov/npdes/menuofbmps/post.htm)) and ([http://cfpub1.epa.gov/npdes/doc.cfm?document\\_type\\_id=1&view=Policy](http://cfpub1.epa.gov/npdes/doc.cfm?document_type_id=1&view=Policy)), respectively.

When developing SWPPPs, applicants must follow the procedures in Addendum A of this permit to determine whether listed endangered or threatened species or critical habitat would be affected by the applicant's storm water discharges or storm water discharge-related activities. Any information on whether listed species or critical habitat are found in proximity to the construction site must be included in the SWPPP. Any terms or conditions that are imposed under the eligibility requirements of Part I.B.3.e and Addendum A of this permit to protect listed endangered or threatened species or critical habitat from storm water discharges or storm water discharge-related activity must be incorporated into the SWPPP. The SWPPP must also address historic properties. Any terms or conditions that are imposed under the eligibility requirements of Part I.B.3.f of this permit to protect listed historic properties from storm water discharges or storm water discharge-related activity must be incorporated into the SWPPP. Permittees must implement the applicable provisions of the SWPPP required under this part as a condition of this permit.

#### **A. Deadlines for Plan Preparation and Compliance**

The storm water pollution prevention plan shall:

1. Be completed prior to the submittal of an NOI to be covered under this permit (except as provided in Part II.A.5) updated as appropriate; and
2. Provide for compliance with the terms and schedule of the SWPPP beginning with the initiation of construction activities.

#### **B. Signature, Plan Review and Making Plans Available**

1. The SWPPP shall be signed in accordance with Part VII.G, and be retained on-site at the facility which generates the storm water discharge in accordance with Part VI (Retention of Records) of this permit.
2. The permittee shall post a notice near the main entrance of the construction site with the following information:
  - a. The NPDES permit number for the project or a copy of the NOI if a permit number has not yet been assigned;
  - b. The name and telephone number of a local contact person;
  - c. A brief description of the project; and

- d. The location of the SWPPP if the site is inactive or does not have an on-site location to store the plan. If posting this information near a main entrance is infeasible due to safety concerns, the notice shall be posted in a local public building. If the construction project is a linear construction project (e.g., pipeline, highway, etc.), the notice must be placed in a publicly accessible location near where construction is actively underway and moved as necessary. This permit does not provide the public with any right to trespass on a construction site for any reason, including inspection of a site; nor does this permit require that permittees allow members of the public access to a construction site.
3. The permittee shall make SWPPPs available upon request to the Director, or Tribal agency; or the operator of a municipal separate storm sewer receiving discharges from the site. The copy of the SWPPP that is required to be kept on-site or locally available must be made available to the Director for review at the time of an on-site inspection. Also, in the interest of public involvement, EPA encourages permittees to make their SWPPPs available to the public for viewing during normal business hours.
4. The Director may notify the permittee at any time that the SWPPP does not meet one or more of the minimum requirements of this Part. Such notification shall identify those provisions of this permit which are not being met by the SWPPP as well as those requiring modification in order to meet the minimum requirements of this Part. Within seven (7) calendar days of receipt of such notification from the Director (or as otherwise provided by the Director), the permittee shall make the required changes to the SWPPP and shall submit to the Director a written certification that the requested changes have been made. The Director may take appropriate enforcement action for the period of time the permittee was operating under a plan that did not meet the minimum requirements of this permit.

### **C. Keeping Plans Current**

The permittee must amend the storm water pollution prevention plan whenever:

1. There is a change in design, construction, operation, or maintenance which has a significant effect on the discharge of pollutants to the waters of the United States which has not been addressed in the SWPPP; or
2. Inspections or investigations by site operators, Tribal or Federal officials indicate the SWPPP is proving ineffective in eliminating or significantly minimizing pollutants from sources identified under Part IV.D.1 of this permit, or is otherwise not achieving the general objectives of controlling pollutants in storm water discharges associated with construction activity.

### **D. Contents of Plan**



1. The storm water pollution prevention plan (SWPPP) shall include the following items:
  - a. A description of the site and the nature of the construction activity;
  - b. A description of the intended sequence of major activities which disturb soils for major portions of the site (e.g., grubbing, excavation, or grading);
  - c. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by excavation, grading, or other activities including off-site borrow and fill areas;
  - d. Estimates, including calculations, if any, of the runoff coefficient of the site before and after construction activities are completed;
  - e. Existing data describing the surface soils as well as subsoils from U.S. Soil Conservation Service information; and
  - f. The name of the receiving water(s) from U.S. Geological Service 7.5 minute series topographical maps or other appropriate source.
2. Each site map shall include a map showing the following items:
  - a. Existing topography and drainage patterns, roads and surface waters;
  - b. Boundaries of the construction site;
  - c. Drainage patterns approximate slopes anticipated after major grading activities;
  - d. Areas of soil disturbance;
  - e. Locations of major structural and nonstructural controls identified in the SWPPP;
  - f. Locations where stabilization practices will be employed;
  - g. Areas which will be vegetated following construction;
  - h. Wetlands, and area extent of wetland acreage on the site and locations where storm water is discharged to a surface water or wetland; and
  - i. Information on whether listed endangered or threatened species, or critical habitat, are found in proximity to the construction activity and whether such species may be affected by the applicant's storm water discharges or storm water

discharge-related activities.

- j Information on whether listed historic properties are found on the site and how to address the applicant's storm water discharges or storm water discharge-related activities.
3. Each SWPPP shall include a description of appropriate controls and measures (i.e., BMPs) that will be implemented at the site to prevent pollutants in storm water discharges from reaching waters of the United States. The SWPPP must clearly describe for each major activity identified in the Notice of Intent and the general timing during the construction process that the measures will be implemented and which permittee is responsible for implementation. The description of erosion controls shall include, when appropriate, the following minimum requirements:
- a. Description of interim and permanent stabilization practices, including a schedule for implementing the practices. Site plans shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized;
  - b. Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site. Unless otherwise specifically approved in writing, structural measures shall be installed on upland soils;
  - c. Management of overland flow at all sites, unless otherwise controlled by outfall controls;
  - d. Trapping of sediment in channelized flow;
  - e. Staging construction to limit bare areas subject to erosion;
  - f. Protection of down slope drainage inlets where they occur;
  - g. Minimization of tracking at all sites;
  - h. Clean up of off-site sediment deposits;
  - i. Proper disposal of building and waste materials at all sites;
  - j. Stabilization of drainage ways;
  - k. Installation of permanent stabilization practices as soon as possible after final grading; and

1. Minimization of dust to the maximum extent practicable.
4. No solid materials, including building materials, may be discharged in violation of applicable laws.
5. Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel to provide a non-erosive flow velocity from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected (e.g. no significant changes in the hydrological regime of the receiving water).
6. The Director may, upon request of a permittee or upon finding of just cause, grant modifications to the compliance and reporting schedules or any requirements of a storm water discharge permit.
7. All erosion and sediment control measures and other protective measures identified in the SWPPP must be maintained in effective operating condition. If site inspections required by Part IV.D.8. identify BMPs that are not operating effectively, maintenance shall be performed before the next anticipated storm event, or as necessary to maintain the continued effectiveness of storm water controls. If maintenance prior to the next anticipated storm event is impracticable, maintenance must be scheduled and accomplished as soon as practicable.
8. The permittee shall:
  - a. Conduct the following inspections by qualified personnel:
    1. Weekly inspections of implemented erosion and sediment controls; and
    2. Inspection of erosion and sediment controls within 24 hours after a precipitation event of 0.5 or greater which results in runoff during active construction periods.
  - b. Maintain weekly written reports of all inspections by or for the permittee that include:
    1. The date, time and exact place of the inspection;
    2. The name of the individual conducting the inspection;
    3. An assessment of the condition of the erosion and sediment controls;
    4. A description of any sediment and erosion control implementation performed; and
    5. A description of the present phase of the construction at the site.
9. Except for flows from fire fighting activities, sources of non-storm water listed in Part

III.A.2 or 3 of this permit that are combined with storm water discharges associated with construction activity must be identified in the SWPPP. The SWPPP shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

10. The SWPPP shall clearly identify the contractor(s) and subcontractor(s) that will install and maintain erosion control and storm water management measures. This information may be added to the SWPPP after the NOI has been submitted to the EPA. It must be included in the SWPPP prior to commencement of land disturbing activities.

## **Part V. Storm Water Management Plan Requirements**

Pollution caused by storm water discharges from the site after construction is completed, including, but not limited to, rooftops, parking lots, roadways and the maintenance of grassed areas shall be addressed by a storm water management plan. Inclusion in the plan of post construction management may not bind either future owners of the property nor any local governments to implement the management practices. A storm water management plan is not required for projects that do not alter runoff volumes or runoff quality from existing conditions and that do not include new development.

### **A. Practices During Construction.**

The plan shall include a description of management practices that will be installed during the construction process to control peak flow, pollutants and runoff volume that will occur after construction operations have been completed. Storm water management practices shall be in accordance with applicable federal and Tribal regulations. To the extent feasible, the plan shall consider efforts to increase on-site infiltration through conveyance, depression storage and reduction of impervious areas. Applicants are recommended to use the post-construction control measures in EPA's menu of Best Management Practices located on the EPA Office of Water webpage ([www.epa.gov/npdes/menuofbmps/post.htm](http://www.epa.gov/npdes/menuofbmps/post.htm)).

### **B. Long Term Practices.**

For any permanent structures, provisions shall be made for long-term maintenance. Long term maintenance provisions for storm water management structures should be made with the Tribe. If the Tribe agrees to take over the long-term maintenance responsibilities, a copy of the agreement shall be attached to the notice of termination. If the Tribe will not make such an agreement, alternative provisions that will be made for long-term maintenance of storm water management structures shall be identified, and a copy of the document mechanism by which it shall be enacted attached to the notice of termination.

### **C. Management Practices.**

Storm water management practices to control impacts from runoff volume and pollutants may include, but are not limited to: infiltration systems, flow attenuation, constructed wetlands, temporary or permanent ponds, combinations of these practices, or other methods which do not cause significant adverse impact on the receiving water or ground water. The plan shall include an explanation of the technical basis used to select the practices to control pollution where flows exceed predevelopment levels.

## **Part VI. Retention of Records**

### **A. Documents**

The permittee shall retain copies of all reports required by this permit, and records of all data used to complete the Notice of Intent to be covered by this permit, for a period of at least three years from the date that the site is finally stabilized. This period may be extended by request of the Director at any time.

### **B. Accessibility**

The permittee shall retain a copy of the storm water pollution prevention plan and the storm water management plan required by this permit (including a copy of the permit language) at the construction site (or other local location accessible to the Director or Tribal agency approving sediment and erosion plans, grading plans, or storm water management plans; or the operator of a municipal separate storm sewer receiving discharges from the site) from the date of project initiation to the date of final stabilization. Permittees with day-to-day operational control over SWPPP implementation shall have a copy of the SWPPP available at a central location on-site for the use of all operators and those identified as having responsibilities under the SWPPP whenever they are on the construction site.

### **C. Addresses**

**In addition to** the submittal of NOIs and NOTs (see Parts ILC and IX.B., respectively), all written correspondence concerning discharges in any area of Indian country in Wisconsin or for any federal facility covered by this permit and directed to the EPA, including the submittal of individual permit applications, shall be sent to:

U.S. Environmental Protection Agency  
NPDES Programs Branch (WN-16J)  
77 West Jackson Blvd.  
Chicago, IL 60604

## **Part VII. Standard Permit Conditions**

## **A. Duty to Comply**

### **1. The Permittee Must Comply With All Conditions of This Permit**

Any permit noncompliance constitutes a violation of CWA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

### **2. Penalties for Violations of Permit Conditions**

The Director will adjust the civil and administrative penalties listed below in accordance with the Civil Monetary Penalty Inflation Adjustment Rule Federal Register: December 31, 1996, Volume 61, Number 252, pages 69359-69366, as corrected, March 20, 1997, Volume 62, Number 54, pages 13514-13517) as mandated by the Debt Collection Improvement Act of 1996 for inflation on a periodic basis. This rule allows EPA's penalties to keep pace with inflation. The Agency is required to review its penalties at least once every four years thereafter and to adjust them as necessary for inflation according to a specified formula. The civil and administrative penalties listed below were adjusted for inflation starting in 1996.

#### **a. Criminal.**

(1) Negligent Violations. The CWA provides that any person who negligently violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

(2) Knowing Violations. The CWA provides that any person who knowingly violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

(3) Knowing Endangerment. The CWA provides that any person who knowingly violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act and who knows at that time he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than \$250,000, or by imprisonment for not more than 15 years, or both.

(4) False Statement. The CWA provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than two years, or by both. If a conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or by both. (See section 309(c)(4) of the Clean Water Act).

b. Civil Penalties. The CWA provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed \$27,500 per day for each violation.

c. Administrative Penalties. The CWA provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows:

(1) Class I Penalty. Not to exceed \$11,000 violation nor shall the maximum amount exceed \$27,500.

(2) Class II Penalty. Not to exceed \$11,000 per day for each day during which the violation continues nor shall the maximum amount exceed \$137,500.

## **B. Continuation of the Expired General Permit**

If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with the Administrative Procedures Act and remain in force and effect. Any permittee who was granted permit coverage prior to the expiration date will automatically remain covered by the continued permit until the earlier of:

1. Reissuance or replacement of this permit, at which time the permittee must comply with the Notice of Intent conditions of the new permit to maintain authorization to discharge; or
2. The permittee's submittal of a Notice of Termination; or
3. Issuance of an individual permit for the permittee's discharges; or
4. A formal permit decision by the Director not to reissue this general permit, at which time the permittee must seek coverage under an alternative general permit or an individual permit.

## **C. Need to Halt or Reduce Activity Not a Defense**

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

## **D. Duty to Mitigate**

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

## **E. Duty to Provide Information**

The permittee shall furnish to the Director or an authorized representative of the Director any information which is requested to determine compliance with this permit or other information.

## **F. Other Information**

When the permittee becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in the Notice of Intent or in any other report to the Director, he or she shall promptly submit such facts or information.

## **G. Signatory Requirements**

All Notices of Intent, Notices of Termination, storm water pollution prevention plans, reports, certifications or information either submitted to the Director, the appropriate tribe or the operator of a large or medium municipal separate storm sewer system, or that this permit requires be maintained by the permittee, shall be signed as follows:

1. All Notices of Intent and Notices of Termination shall be signed as follows:
  - a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or the manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second-quarter 1980 dollars) if authority to sign documents has been assigned to delegated to the manager in accordance with corporate procedures;
  - b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
  - c. For a municipality, State, Tribe, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes (1) the chief executive officer of the agency, or (2) senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator of EPA).
2. All reports required by this permit and other information requested by the Director or authorized representative of the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
  - a. The authorization is made in writing by a person described above and submitted to the Director.



- b. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).
- c. Changes to Authorization. If an authorization under Part II.B is no longer accurate because a different operator has responsibility for the overall operation of the construction site, a new Notice of Intent satisfying the requirements of Part II.B must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative. The change in authorization must be submitted within the time frame specified in Part II.A.3, and sent to the address specified in Part II.C.
- d. Certification. Any person signing documents under Part X.G shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

## **H. Penalties for Falsification of Reports**

Section 309(c)(4) of the Clean Water Act provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than two years, or by both.

## **I. Oil and Hazardous Substance Liability**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the CWA or section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

## **J. Property Rights**

The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, Tribal, State or local laws or regulations.

## **K. Severability**

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

## **L. Requiring an Individual Permit or an Alternative General Permit**

1. The Director may require any person authorized by this permit to apply for and/or obtain either an individual NPDES permit or an alternative NPDES general permit. Any interested person may petition the Director to take action under this paragraph. Where the Director requires a permittee authorized to discharge under this permit to apply for an individual NPDES permit, the Director shall notify the permittee in writing that a permit application is required. This notification shall include a brief statement of the reasons for this decision, an application form, a statement setting a deadline for the permittee to file the application, and a statement that on the effective date of issuance or denial of the individual NPDES permit or the alternative general permit as it applies to the individual permittee, coverage under this general permit shall automatically terminate. Applications shall be submitted to the EPA's Region 5 Office and the appropriate tribe indicated in Part VI.C of this permit. The Director may grant additional time to submit the application upon request of the applicant. If a permittee fails to submit in a timely manner an individual NPDES permit application as required by the Director under this paragraph, then the applicability of this permit to the individual NPDES permittee is automatically terminated at the end of the day specified by the Director for application submittal.
2. Any permittee authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit. In such cases, the permittee shall submit an individual application in accordance with the requirements of 40 CFR 122.26(c)(1)(ii), with reasons supporting the request, to the Director at the address for the Region 5 Office indicated in Part VI.C of this permit. A copy of this application must also be sent to the appropriate tribe. The request may be granted by issuance of any individual permit or an alternative general permit if the reasons cited by the permittee are adequate to support the request.
3. When an individual NPDES permit is issued to a permittee otherwise subject to this permit, or the permittee is authorized to discharge under an alternative NPDES general

permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. When an individual NPDES permit is denied to an owner or operator otherwise subject to this permit, or the owner or operator is denied for coverage under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the date of such denial, unless otherwise specified by the Director. However, the Director may authorize coverage under this permit after appropriate controls and implementation procedures designed to bring the discharges into compliance with water quality standards has been included in the storm water pollution prevention plan.

#### **M. Tribal Environmental Laws**

1. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable Federal or Tribal law or regulation under authority preserved by section 518 of the Act.
2. No condition of this permit shall release the permittee from any responsibility or requirements under other environmental statutes or regulations.

#### **N. Proper Operation and Maintenance**

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit and with the requirements of storm water pollution prevention plans. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee only when necessary to achieve compliance with the conditions of this permit.

#### **O. Inspection and Entry**

The permittee shall allow the Director or an authorized representative of EPA, the Tribe, or, an authorized representative of the Tribe, and, where appropriate, in the case of a construction site which discharges through a municipal separate storm sewer, an authorized representative of the municipal owner/operator of the separate storm sewer receiving the discharge, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;
2. Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit; and

3. Inspect at reasonable times any facilities or equipment (including monitoring and control equipment).

## **P. Permit Actions**

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

## **Part VIII. Reopener Clause**

- A. If there is evidence indicating that storm water discharges authorized by this permit are significant contributors to excursions of water quality standards, the permittee may be required to obtain an individual permit or an alternative general permit in accordance with Part VII.L of this permit, or the permit may be modified to include different limitations and/or requirements.
- B. Permit modification or revocation will be conducted according to 40 CFR 122.62, 122.63, 122.64 and 124.5.

## **Part IX. Termination of Coverage**

### **A. Notice of Termination**

Permittees must submit a completed Notice of Termination (NOT) that is signed in accordance with Part X.G of this permit when one or more of the conditions contained in Part I.D.2. (Terminating Coverage) have been met at a construction project. The NOT form found in Addendum D will be used unless it has been replaced by a revised version by the Director. The Notice of Termination shall include the following information:

1. The NPDES permit number for the storm water discharge identified by the Notice of Termination;
2. An indication of whether the storm water discharges associated with construction activity have been eliminated (i.e., regulated discharges of storm water are being terminated) or the permittee is no longer an operator at the site;
3. The name, address and telephone number of the permittee submitting the Notice of Termination;
4. The name of the project and street address (or a description of location if no street address is available) of the construction site for which the notification is submitted;
5. The latitude and longitude of the construction site; and
6. The following certification, signed in accordance with Part VII.G (signatory requirements) of this permit. For construction projects with more than one permittee and/or operator, the permittee need only make this certification for those

portions of the construction site where the permittee was authorized under this permit and not for areas where the permittee was not an operator:

“I certify under penalty of law that all storm water discharges associated with industrial activity from the identified facility that authorized by a general permit have been eliminated or that I am no longer the operator of the facility or construction site. I understand that by submitting this notice of termination, I am no longer authorized to discharge storm water associated with industrial activity under this general permit, and that discharging pollutants in storm water associated with industrial activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by a NPDES permit. I also understand that the submittal of this Notice of Termination does not release an operator from liability for any violations of this permit or the Clean Water Act.”

For the purposes of this certification, elimination of storm water discharges associated with construction activity means that all disturbed soils at the portion of the construction site where the operator had control have been finally stabilized (as defined in Part X.I) and temporary erosion and sediment control measures have been removed or will be removed at an appropriate time to ensure final stabilization is maintained, or that all storm water discharges associated with construction activities from the identified site that are authorized by a NPDES general permit have otherwise been eliminated from the portion of the construction site where the operator had control.

## **B. Addresses**

1. All Notices of termination, signed in accordance with Part VII.G of this permit, are to be submitted using the form provided by the Director (or a photocopy thereof), to the address specified on the NOT form, the EPA Region 5 Office and to the appropriate tribe.

## **Part X. Definitions**

- A. Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the United States. BMPs also include treatment requirements, operating procedures, and practice to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
- B. Control Measure as used in this permit, refers to any Best Management Practice or other method used to prevent or reduce the discharge of pollutants to waters of the United States.
- C. Commencement of Construction the initial disturbance of soils associated with clearing,

grading, or excavating activities or other construction activities.

- D. CWA means the Clean Water Act or the Federal Water Pollution Control Act, 33 U.S.C. section 1251 et seq.
- E. Director means the Regional Administrator of the Environmental Protection Agency or an authorized representative.
- F. Discharge when used without qualification means the “discharge of a pollutant.”
- G. Discharge of Storm Water Associated with Construction Activity as used in this permit, refers to a discharge of pollutants in storm water runoff from areas where soil disturbing activities (e.g., clearing, grading, or excavation), construction materials or equipment storage or maintenance (e.g., fill piles, borrow area, concrete truck washout, fueling), or other industrial storm water directly related to the construction process (e.g., concrete or asphalt batch plants) are located.
- H. Facility or Activity means any NPDES “point source” or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the NPDES program.
- I. Final Stabilization means that either:
  - 1. All soil disturbing activities at the site have been completed and a uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed. In such parts of the country, background native vegetation will cover less than 100% of the ground (e.g., arid areas, beaches). Establishing at least 70% of the natural cover of the native vegetation meets the vegetative cover criteria for final stabilization (e.g., if the native vegetation covers 50% of the ground, 70% of 50% would require 35% total cover for final stabilization; on a beach with no natural vegetation, no stabilization is required); or
  - 2. For individual lots in residential construction by either: (a) The homebuilder completing final stabilization as specified above, or (b) the homebuilder establishing temporary stabilization including perimeter controls for an individual lot prior to occupation of the home by the homeowner and informing the homeowner of the need for, and benefits of, final stabilization. (Homeowners typically have an incentive to put in the landscaping functionally equivalent to final stabilization as quick as possible to keep mud out of their homes and off sidewalks and driveways.); or

3. For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to “water of the United States,” and area which are not being returned to their preconstruction agricultural use must meet the final stabilization criteria (1) or (2) above.
- J. Flow-Weighted Composite Sample means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.
- K. Indian country means:
1. All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation;
  2. All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and;
  3. All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. Based on Supreme Court case law, EPA construes the term "reservation" to include trust land that has been validly set apart for use by a Tribe, even if that land has not been formally designated as a "reservation." See 58 FR 67,966, 67,971 (December 22, 1993); see also Oklahoma Tax Commission v. Citizen Band Potawatomi Indian Tribe of Oklahoma, 505 U.S. 505, 511 (1991); HRI v EPA 198 F.3d 1224 (10th Cir. 2000); Arizona Public Service Co. v EPA, 211 F.3d 1280 (D.C. Cir.), cert. denied, 121 S.Ct. 1600 (2001). Indian country includes the following Indian reservations:
    - a. Bad River Band of Lake Superior Chippewa
    - b. Forest County Potawatomi Community
    - c. Ho Chunk Nation
    - d. Lac Courte Oreilles Band of Lake Superior Chippewa
    - e. Lac du Flambeau Band of Lake Superior Chippewa
    - f. Menominee Tribe of Wisconsin
    - g. Oneida Tribe of Indians of Wisconsin
    - h. Red Cliff Band of Lake Superior Chippewa
    - I. Sokaogon (Mole Lake) Band of Lake Superior Chippewa
    - j. St. Croix Band of Lake Superior Chippewa
    - k. Stockbridge-Munsee Community

- L. Large and Medium Municipal Separate Storm Sewer System means all municipal separate storm sewers that are either:
1. Located in an incorporated place (city) with a population of 100,000 or more as determined by the latest Decennial Census by the Bureau of Census (these cities are listed in Appendices F and G of 40 CFR 122); or
  2. Located in the counties with unincorporated urbanized populations of 100,000 or more, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties (these counties are listed in Appendices H and I of 40 CFR 122); or
  3. Owned or operated by a municipality other than those described in paragraph (I) and (ii) and that are designated by the Director as part of the large or medium municipal separate storm sewer system.
- M. NOI means Notice of Intent to be covered by this permit (see Part II of this permit.)
- N. NOT means Notice of Termination (see Part XII of this permit).
- O. Operator for the purpose of this permit and in the context of storm water associated with construction activity, means any party associated with a construction project that meets either of the following two criteria:
1. The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or
  2. The party has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a storm water pollution prevention plan for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the SWPPP or comply with other permit conditions). This definition is provided to inform permittees of EPA's interpretation of how the regulatory definitions of "owner or operator" and "facility or activity" are applied to discharges of storm water associated with construction activity.
- P. Owner or operator means the owner or operator of any "facility or activity" subject to regulation under the NPDES program.
- Q. Point Source means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term



does not include return flows from irrigated agriculture or agricultural storm water runoff.

- R. Pollutant is defined at 40 CFR 122.2. A partial listing from this definition includes: dredged spoil, solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial or municipal waste.
- S. Runoff coefficient means the fraction of total rainfall that will appear at the conveyance as runoff.
- T. Storm Water means storm water runoff, snow melt runoff, and surface runoff and drainage.
- U. Storm Water Associated with Industrial Activity is defined at 40 CFR 122.26(b)(14) and incorporated here by reference. Most relevant to this permit is 40 CFR 122.26(b)(14)(x), which relates to construction activity including clearing, grading and excavation activities that result in the disturbance of five (5) or more acres of total land area, or are part of a larger common plan of development or sale.
- V. Storm Water Associated with Small Construction Activity means the discharge of storm water from:
  - 1. construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal or greater than one and less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.
  - 2. Any other construction activity designated by the Director, or in States with approved NPDES programs either the Director or the EPA Regional Administrator, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to waters of the United States.
- W. Waters of the United States means:
  - 1. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
  - 2. All interstate waters, including interstate "wetland";

3. All other waters such as interstate lakes, rivers, streams (including intermittent streams), mudflat, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
  - a. Which are or could be used by interstate or foreign travelers for recreational or other purposes;
  - b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
  - c. Which are used or could be used for industrial purposes by industries in interstate, commerce;
4. All impoundments of waters otherwise defined as waters of the United States under this definition;
5. Tributaries of waters identified in paragraphs 1 through 4 of this definition;
6. The territorial sea; and
7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraph 1 through 6. of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirement of the CWA (other than cooling ponds for steam electric generation stations per 40 CFR 423) which also meet the criteria of this definition) are not waters of the United States. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

- X. Applicable Water Quality Standard means standards promulgated or approved by EPA for Indian country, including approved water quality standards submitted by a tribe.

## **Addendum A--Endangered Species**

### **I. Instructions for Applicants**

#### **A. Background**

To meet its obligations under the Clean Water Act and the Endangered Species Act (ESA) and to promote these Acts' goals, the Environmental Protection Agency (EPA) is seeking to ensure the activities regulated by this general permit are protective of endangered and threatened species and critical habitat. To ensure that those goals are met, applicants for permit coverage are required under Part I.B.3.e. to assess the impacts of their storm water discharges and storm water discharge-related activities on Federally listed endangered and threatened species ("listed species") and designated critical habitat ("critical habitat") by following Steps One through Six listed below. EPA strongly recommends that applicants follow these steps at the earliest possible stage to ensure that measures to protect listed species and critical habitat are

incorporated early in the planning process (90 days prior to construction activities, if possible). At minimum, the procedures should be followed when developing the storm water pollution prevention plan.

Permittees and applicants also have an independent ESA obligation to ensure that their activities do not result in any prohibited “takes” of listed species.\1\ Many of the measures required in the permit and in these instructions to protect species may also assist permittees in ensuring that their construction activities do not result in a prohibited take of species in violation of section 9 of the ESA.

Applicants who plan construction activities in areas that harbor endangered and threatened species are advised to ensure that they are protected from potential takings liability under ESA section 9 by obtaining either an ESA section 10 permit or by requesting formal consultation under ESA section 7 (as described in more detail in Step Six below). Applicants who seek protection from takings liability should be aware that it is possible that some specific construction activities may be too unrelated to storm water discharges to be afforded incidental take coverage through an ESA section 7 consultation that is performed to meet the eligibility requirements for permit coverage. In such instances, applicants should apply for an ESA section 10 permit. Where applicants are not sure whether to pursue a section 10 permit or a section 7 consultation for takings protection, they should confer with the Fish and Wildlife Service (FWS) office.

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\1\ Section 9 of the ESA prohibits any person from “taking” a listed species (e.g., harassing or harming it) unless: (1) The taking is authorized through a “incidental take statement” as part of undergoing ESA Sec. 7 formal consultation; (2) where an incidental take permit is obtained under ESA Sec. 10 (which requires the development of a habitat conservation plan); or (3) where otherwise authorized or exempted under the ESA. This prohibition applies to all entities including private individuals, businesses, and governments.

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This permit provides for the possibility of multiple permittees at a construction site. Applicants should be aware that in many cases they can meet the permit eligibility requirements by relying on another operator's certification of eligibility under Part I.B.3.e.(2)(a), (b), or (c). This is allowed under Part I.B.3.e.(2)(d) of the permit. However, the other operator's certification must apply to the applicant's project area and must address the effects from the applicant's storm water discharges and storm water discharge-related activities on listed species and critical habitat. By certifying eligibility under Part I.B.3.e.(2)(d), the applicant agrees to comply with any measures or controls upon which the other operator's certification under Part I.B.3.e.(2)(a), (b) or © was based. This situation will typically occur where a developer or primary contractor, such as one for construction of a subdivision or industrial part, conducts a comprehensive assessment of effects on listed species and critical habitat for the entire construction project, certifies eligibility under Part I.B.3.e.(2)(a), (b) or (c), and that certification is relied upon by other operators (i.e., contractors) at the site. However, applicants that consider relying on another operator's certification should carefully review that certification along with any supporting

information. If an applicant does not believe that the operator's certification provides adequate coverage for the applicant's storm water discharges and storm water discharge-related activities or for the applicant's particular project area, the applicant should provide its own independent certification under Part I.B.3.e.(2)(a), (b), or (c).

## **B. Procedures**

To receive coverage under this general permit, applicants must assess the potential effects of their storm water discharges and storm water discharge-related activities on listed species and their critical habitat. To make this assessment, applicants must follow the steps outlined below prior to completing and submitting Notice of Intent (NOI) form. Applicants who are able to certify eligibility under Parts I.B.3.e.(2)(b), © or (d) because of a previously issued ESA section 10 permit, a previously completed ESA section 7 consultation, or because the applicant's activities were already addressed in another operator's certification of eligibility may proceed directly to Step Six.

Note--The NOI form requires that applicants provide detailed certification information on listed species. By following these instructions, applicants will have sufficient information on listed species and critical habitat in order to complete the NOI form and sign the certification statement.

### **Step One: Determine if the Construction Site is Found Within Designated Critical Habitat for Listed Species**

Some, but not all, listed species have designated critical habitat. Exact locations of such habitat is provided in the Service regulations at 50 CFR Parts 17 and 226. To determine if the construction site occurs within designated critical habitat, applicants should either:

Contact the Fish and Wildlife Service (FWS) Office. The Wisconsin FWS office address is found in Section II of this Addendum; or

Contact the State or Tribal Natural Heritage Centers. These centers compile and disseminate information on Federally listed and other protected species. They frequently have the most current information on listed species and critical habitat. The Wisconsin center address is provided in Section III of this Addendum; or review those regulations (which can be found in many larger libraries).

If the construction site is not located in designated critical habitat, then the applicant does not need to consider impacts to critical habitat when following Steps Two through Six below. If the site is located within critical habitat, then the applicant must look at impacts to critical habitat when following Steps Two through Six.

Note that many but not all measures imposed to protect listed species under these steps will also protect critical habitat. Thus, meeting the eligibility requirements of this permit may require measures to protect critical habitat that are separate from those to protect listed species.

### **Step Two: Determine if Listed Species are Located in the County(ies) Where the**

## **Construction Activity Will Occur**

Section II of the Addendum contains a county-by-county list of listed endangered and threatened species ("listed species"), and proposed endangered and threatened species ("proposed species"). Since the list was current as of the public notice for this permit, applicants must also check with other sources for updated species and county information. These sources include: Sections II and III of this Addendum; EPA's Office of Wastewater Management's web page at <http://www.epa.gov/owm> where updates of the county-by-county list will be posted on a periodic basis; Federal Register Notices; State wildlife protection offices; a biologist or similar professional in the environmental field; or any other method which can be reasonably expected to provide this information.

Where a facility is located in more than one county, the lists for all counties should be reviewed. Where a facility discharges into a water body which serves as a border between counties or which crosses a county line which is in the immediate vicinity of the point of discharge, applicants should also review the species list for the county which lies immediately downstream or is across the water body from the point of discharge.

After a review of the available information from the sources mentioned above, if no listed species are located in a facility's county or if a facility's county is not listed, and the construction site is not located in critical habitat as described under Step One, an applicant is eligible for permit coverage without further inquiry into the presence of, or effect to, listed species. The applicant must check the appropriate certification item on the NOI form (Part I.B.3.e.(2)(a)). Once the applicant has determined which listed species are located in his or her facility's county, the applicant must follow Step Three.

### **Step Three: Determine if Any Federally Listed Endangered and Threatened Species May Be Present in the Project Area**

The project area consists of: The areas on the construction site where storm water discharges originate and flow toward the point of discharge into the receiving waters (including areas where excavation, site development, or other ground disturbance activities occur) and the immediate vicinity.

Example(s)

1. Where bald eagles nest in a tree that is on or bordering a construction site and could be disturbed by the construction activity.
2. Where grading causes storm water to flow into a small wetland or other habitat that is on the site which contains listed species.

The areas where storm water discharges flow from the construction site to the point of discharge into receiving waters.

Example(s)

1. Where storm water flows into a ditch, swale, or gully which leads to receiving waters and where listed species (such as amphibians) are found in the ditch, swale, or gully.

The areas where storm water from construction activities discharge into receiving waters

and the areas in the immediate vicinity of the point of discharge.

Example(s)

1. Where storm water from construction activities discharges into a stream segment that is known to harbor listed aquatic species.

The areas where storm water BMPs will be constructed and operated, including any areas where storm water flows to and from BMPs.

Example(s)

1. Where a storm water retention pond would be built.

The protect area will vary with the size and structure of the construction activity, the nature and quantity of the storm water discharges, the storm water discharge-related activities and the type of receiving water. Given the number of construction activities potentially covered by the permit, no specific method to determine whether listed species may be located in the project area is required for coverage under the permit. Instead, applicants should use the method which allows them to determine, to the best of their knowledge, whether listed species are located in their project area. These methods may include:

Conducting visual inspections: This method may be particularly suitable for construction sites that are smaller in size or located in non-natural settings such as highly urbanized areas or industrial parks where there is little or no natural habitat, or for construction activities that discharge directly into municipal storm water collection systems.

Contacting the nearest State or Tribal wildlife agency, the Fish and Wildlife Service (FWS). Many endangered and threatened species are found in well-defined areas or habitats. Such information is frequently known to State, Tribal, or Federal wildlife agencies. A list of FWS offices is provided in section II of this Addendum below.

Contacting local/regional conservation groups or the State or Tribal Natural Heritage Centers (see section III of this Addendum).

State and local conservation groups may have location specific listed species information. The Natural Heritage Centers inventory species and their locations and maintain lists of sightings and habitats.

Submitting a data request to a Natural Heritage Center. Many of these centers will provide site specific information on the presence of listed species in a project area. Some of these centers will charge a fee for researching data requests.

Conducting a formal biological survey. Larger construction sites with extensive storm water discharges may choose to conduct biological surveys as the most effective way to assess whether species are located in the project area and whether there are likely adverse effects. Biological surveys are frequently performed by environmental consulting firms. A biological survey can be used to follow Steps Four through Six of these instructions.

Conducting an environmental assessment under the National Environmental Policy Act (NEPA). Some construction activities may require environmental assessments under NEPA. Such assessments may indicate if listed species are in the project area. Coverage under the permit does not trigger such an assessment because the permit does not regulate any dischargers subject to New Source Performance Standards under section 306 of the Clean Water Act, and is thus statutorily exempted from NEPA. See CWA section 511(c). However, some construction

activities might require review under NEPA because of Federal funding or other Federal involvement in the project.

If no species are found in the project area, an applicant is eligible for permit coverage. Applicants must provide the necessary certification on the NOI form. If listed species are found in the project area, applicants must indicate the location and nature of this presence in the storm water pollution prevention plan and follow Step Four.

#### **Step Four: Determine if Listed Species or Critical Habitat Are Likely To Be Adversely Affected by the Construction Activity's Storm Water Discharges or Storm Water Discharge-Related Activities**

To receive permit coverage, applicants must assess whether their storm water discharges or storm water discharge-related activities are likely to adversely affect listed species or critical habitat. "Storm water discharge-related activities" include:

Activities which cause, contribute to, or result in point source storm water pollutant discharges, including but not limited to excavation, site development, grading, and other surface disturbance activities; and

Measures to control storm water discharges including the siting, construction, operation of best management practices (BMPs) to control, reduce or prevent storm water pollution.

Potential adverse effects from storm water discharges and storm water discharge-related activities include:

Hydrological. Storm water discharges may cause siltation, sedimentation or induce other changes in receiving waters such as temperature, salinity or pH. These effects will vary with the amount of storm water discharged and the volume and condition of the receiving water. Where a storm water discharge constitutes a minute portion of the total volume of the receiving water, adverse hydrological effects are less likely. Construction activity itself may also alter drainage patterns on a site where construction occurs which can impact listed species or critical habitat.

Habitat. Excavation, site development, grading, and other surface disturbance activities from construction activities, including the installation or placement of storm water BMPs, may adversely affect listed species or their habitat. Storm water may drain or inundate listed species habitat.

Toxicity. In some cases, pollutants in storm water may have toxic effects on listed species.

The scope of effects to consider will vary with each site. If the applicant is having difficulty in determining whether his or her project is likely to adversely affect a listed species or critical habitat, then the appropriate office of the FWS or Natural Heritage Center listed in sections II and III of this Addendum should be contacted for assistance. If adverse effects are not likely, then the applicant should make the appropriate certification on the NOI form and apply for coverage under the permit. If adverse effects are likely, applicants must follow Step Five.

#### **Step Five: Determine if Measures Can Be Implemented to Avoid Any Adverse Effects**

If an applicant makes a preliminary determination that adverse effects are likely, it can still receive coverage under Part I.B.3.e.(2)(a) of the permit if appropriate measures are undertaken to avoid or eliminate the likelihood of adverse effects prior to applying for permit coverage. These measures may involve relatively simple changes to construction activities such as re-routing a storm water discharge to bypass an area where species are located, relocating BMPs, or by changing the “footprint” of the construction activity. Applicants may wish to contact the FWS to see what appropriate measures might be suitable to avoid or eliminate the likelihood of adverse impacts to listed species and/or critical habitat. (See 50 CFR 402.13(b)). This can entail the initiation of informal consultation with the FWS which is described in more detail in Step Six.

If applicants adopt measures to avoid or eliminate adverse effects, they must continue to abide by those measures during the course of permit coverage. These measures must be described in the storm water pollution prevention plan and may be enforceable as permit conditions. If appropriate measures to avoid the likelihood of adverse effects are not available to the applicant, the applicant must follow Step Six.

#### **Step Six: Determine if the Eligibility Requirements of Part I.B.3.e.(2)(b)-(d) Can Be Met**

Where adverse effects are likely, the applicant must contact the EPA and FWS. Applicants may still be eligible for permit coverage if any likely adverse effects can be addressed through meeting the criteria of Part I.B.3.e.(2)(b)-(d) of the permit. These criteria are as follows:

1. An ESA Section 7 Consultation Is Performed for the Applicant's Activity (See Part I.B.3.e.(2)(b)).

Formal or informal ESA section 7 consultation is performed with the FWS which addresses the effects of the applicant's storm water discharges and storm water discharge-related activities on listed species and critical habitat. The formal consultation must result in either a “no jeopardy opinion” or a “jeopardy opinion” that identifies reasonable and prudent alternatives to avoid jeopardy which are to be implemented by the applicant. The informal consultation must result in a written concurrence by the Service(s) on a finding that the applicant's storm water discharge(s) and storm water discharge-related activities are not likely to adversely affect listed species or critical habitat (for informal consultation, see 50 CFR 402.13).

Most consultations are accomplished through informal consultation. By the terms of this permit, EPA has automatically designated applicants as non-Federal representatives for the purpose of conducting informal consultations. See Part I.B.3.e.(5) and 50 CFR 402.08 and 402.13. When conducting informal ESA section 7 consultation as a non-Federal representative, applicants must follow the procedures found in 50 CFR 402 of the ESA regulations.

Applicants must also notify EPA and the Services of their intention and agreement to conduct consultation as a non-Federal representative. Consultation may occur in the context of another Federal action at the construction site (e.g., where ESA section 7 consultation was



performed for issuance of a wetlands dredge and fill permit for the project or where a NEPA review is performed for the project which incorporates a section 7 consultation). Any terms and conditions developed through consultations to protect listed species and critical habitat must be incorporated into the SWPPP. As noted above, applicants may, if they wish, initiate consultation with the Services at Step Five.

Whether ESA section 7 consultation must be performed with either the FWS depends on the listed species which may be affected by the applicant's activity. Applicants should also be aware that while formal section 7 consultation provides protection from incidental takings liability, informal consultation does not.

**2. An Incidental Taking Permit Under Section 10 of the ESA is Issued for the Applicants Activity (See Part I.B.3.e.(2)(c)).**

The applicant's construction activities are authorized through the issuance of a permit under section 10 of the ESA and that authorization addresses the effects of the applicant's storm water discharge(s) and storm water discharge-related activities on listed species and critical habitat. Applicants must follow FWS procedures when applying for an ESA Section 10 permit (see 50 CFR section 17.22(b)(1)(FWS).

**3. The Applicant is Covered Under the Eligibility Certification of Another Operator for the Project Area (See Part I.B.3.e.(2)(d)).**

The applicant's storm water discharges and storm water discharge-related activities were already addressed in another operator's certification of eligibility under Part I.B.3.e.(2)(b), or (c) which also included the applicant's project area. By certifying eligibility under Part I.B.3.e.(2)(d), the applicant agrees to comply with any measures or controls upon which the other operator's certification under Part I.B.3.e.(2)(a), (b) or (c) was based. Certification under Part I.B.3.e.(2)(d) is discussed in more detail in section I.A. of this addendum.

The applicant must comply with any terms and conditions imposed under the eligibility requirements of paragraphs I.B.3.e.(2)(a), (b), (c), (d) to ensure that its storm waters discharges and storm water discharge-related activities are protective of listed species and/or critical habitat. Such terms and conditions must be incorporated in the project's SWPPP. If the eligibility requirements of Part I.B.3.e.(2)(a)-(d) cannot be met, then the applicant may not receive coverage under the permit. Applicants should then consider applying to EPA for an individual permit.

## **II. List of Federal Endangered and Candidate Species in Wisconsin**

### **A. Federal Endangered Species by County**

The current Endangered Species List by County can be found at (<http://midwest.fws.gov/r3pao/endangered/lists/wisconsi.html>)

### **B. Candidate Species List**

A list of candidate species for each state can be found at

([Http://midwest.fws.gov/r3poa/endangered/lists/candidate.html](http://midwest.fws.gov/r3poa/endangered/lists/candidate.html))

### **C. U.S. Fish and Wildlife Service Wisconsin Field Office**

Field Supervisor, U.S. Fish and Wildlife Service, Green Bay Field Office, 1015 Challenger Court, Green Bay, WI 54311-8331

### **III. Natural Heritage Centers**

The Natural Heritage Network comprises 85 biodiversity data centers throughout the Western Hemisphere. These centers collect, organize, and share data relating to endangered and threatened species and habitat. The network was developed to inform land-use decisions for developers, corporations, conservationists, and government agencies and is also consulted for research and educational purposes. The centers maintain a Natural Heritage Network Control Server Website (<http://www.heritage.tnc.org>) which provides website and other access to a large number of specific biodiversity centers. The Wisconsin center is listed below:

Wisconsin Natural Heritage Program

Endangered Resources, Department of Natural Resources, 101 S. Webster Street, Box 7921, Madison, WI 53707, Ph:(608)266-7012 FAX:(608) 266-2925

### **Addendum B—State and Tribal Historic Preservation Officers and Tribal Environmental Departments**

#### **I. Tribes with THPO Status**

If the construction activity is within the following Indian reservations, please contact the THPO listed below:

Larry Garvin  
Tribal Historic Preservation Officer  
Ho-Chunk Indian Reservation  
Historic Preservation Department  
W9814 Airport Road  
Black River Falls, WI 54615  
Phone: (715) 284-7181  
FAX: (715) 284-7449

Kelly Jackson  
Tribal Historic Preservation Officer  
Lac Du Flambeau Band of Chippewa  
P.O. Box 67

Lac Du Flambeau, WI 54538  
Phone: (715) 588-2139  
FAX: (715) 588-2419

David Grignon  
Tribal Historic Preservation Officer  
Menominee Indian Tribe of Wisconsin  
P.O. Box 910  
Keshena, WI 54135  
FAX: (715) 799-5258

## **II. Tribes without THPO Status**

If the construction activities within the Bad River Indian Reservation, Forest County Indian Reservation, Lac Courte Oreilles Indian Reservation, Oneida Indian Reservation, Red Cliff Indian Reservation, Sokaogon (Mole Lake) Indian Reservation, St. Croix Indian Reservation and the Stockbridge-Munsee Indian Reservation, contact:

Richard Dexter  
Compliance Coordinator  
Historic Preservation - Room 303  
State Historical Society of Wisconsin  
816 State Street  
Madison, WI 53706  
Phone: (608) 264-6509  
FAX: (608) 264-6404

The applicant should also contact the applicable Tribal Environmental Department(s) listed below in addition to the SHPO or THPO regarding endangered species, critical habitat, and potential historic properties on construction sites in Indian country.

KIRSTEN CAHOW, LYNN HALL  
Bad River Band of Lake Superior Chippewa  
PO Box 39  
Odanah, WI 54861  
715-682-7123  
FAX: 715-682-7118  
brwater@badriver.com  
wetlands@badriver.com

PAT PELKY/JIM SNITGEN  
Oneida Tribe of WI, Env. QUALITY  
PO Box 365

Oneida, WI 54155  
920-497-5812  
FAX: 920-496-7883  
PELKY1@oneidanation.org  
MMOREN@oneidanation.org  
JSNITGEN@oneidanation.org

CHRISTINE HANSEN  
Forest County Potawatomi Community  
PO Box 346  
Crandon, WI 54520  
715-478-7209  
FAX: 715-478-5280  
fcpepa@newnorth.net

JUDY PRATT-SHELLEY/DAVE ANDERSON  
Red Cliff Band of Lake Superior Chippewa  
PO Box 529  
Bayfield, WI 54814  
715-779-3700 ext 23/ext. 51  
FAX: 715-779-3704  
rctribal@ncis.net

TINA VANZILE/ROMAN FERDINAND  
Sokaogon Chippewa Community  
Environmental Building  
3051 Sand Lake Road  
Crandon, Wisconsin 54520  
(715)478-7600  
Fax (715)478-7518  
tinavz30@newnorth.net  
roman@newnorth.net

AARON COLSON / STEVE JENSON  
ST. Croix Band of Chippewa  
Env. Dept.  
PO Box 287, 24663 Angeline Ave.  
Hertel, WI 54845  
715-349-2195-x106/x144/x8269  
FAX: 715-349-7602  
aarcol@stcroixtribalcenter.com  
sjenson@sirentel.net

DAN TYROLT/BRETT McCONNELL  
Lac Courte Oreilles Conservation Dept.  
13394 W. Trepania Rd., Bldg 1  
Hayward, WI 54843  
715-865-2329  
FAX: 715-865-3516  
ddtyrolt@cheqnet.net  
brettmc@cheqnet.net

GREG BUNKER/TONI TOURTILLOTT  
Environmental Department.  
Stockbridge-Munsee Community  
P.O. Box 70, Route 31  
Bowler, WI 54416  
715-793-4363/4878  
FAX: 715-793-4370  
gbunker@frontiernet.net  
aitourtillott@hotmail.com

DEE MAYO/KURT MOSER  
Lac Du Flambeau Band of Chippewa  
PO Box 67  
Lac Du Flambeau, WI 54538  
715-588-3303  
FAX: 715-588-3207  
deecallen@newnorth.net  
krmoser@newnorth.net

JIM DUNNING/RANDY POELMA  
Wisconsin Winnebago Department of Health  
25 N. Second St. , PO Box 636  
(PO Box 726 for Randy)  
Black River Falls, WI 54615  
715-284-7548 Jim; 1-800-944-1652, ext 1109 Randy  
FAX: 715-284-9592 Jim; 715-284-5884 Randy  
dunninja@discover-net.net  
rpoelma@ho-chunk.com

GARY SCHUETTPELZ/DOUG COX  
Menominee Indian Tribe of Wisconsin  
PO Box 910  
Keshena, WI 54135  
715-799-6152/4937

FAX: 715-799-6153  
gschuett@itol.com  
dcox@itol.com

**Addendum C--Notice of Intent**

Notice of Intent forms can be obtained either by downloading an electronic version of the form from the EPA webpage at (<http://www.epa.gov/owm/sw/construction/connoi.pdf>) or by calling Brian Bell, NPDES programs Branch at (312) 886-0981.

**Addendum D--Notice of Termination**

Notice of Intent forms can be obtained either by downloading an electronic version of the form from the EPA webpage at (<http://www.epa.gov/owm/sw/industry/msgeneralpermit/notform.pdf>) or by calling Brian Bell, NPDES programs Branch at (312) 886-0981.